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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/931,216	08/16/2001	Lawrence S. Cousens	PP00037.201 2300-0037.04	3820

7590 04/08/2004

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EXAMINER	
ALLEN, MARIANNE P	

ART UNIT	PAPER NUMBER
1631	

DATE MAILED: 04/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action	Application No.	Applicant(s)	
	09/931,216	COUSENS ET AL.	
	Examiner	Art Unit	
	Marianne P. Allen	1631	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 12 March 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.

b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.

2. ☐ The proposed amendment(s) will not be entered because:

   (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);

   (b) ☐ they raise the issue of new matter (see Note below);

   (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

   (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.

4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

5. ☒ The a)☐ affidavit, b)☐ exhibit, or c)☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: *See Continuation Sheet*.

6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

7. ☐ For purposes of Appeal, the proposed amendment(s) a)☐ will not be entered or b)☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:

   Claim(s) allowed: *none*.

   Claim(s) objected to: *none*.

   Claim(s) rejected: *18-28*.

   Claim(s) withdrawn from consideration: *none*.

8. ☐ The drawing correction filed on _____ is a)☐ approved or b)☐ disapproved by the Examiner.

9. ☐ Note the attached Information Disclosure Statement(s)(PTO-1449) Paper No(s). _____.

10. ☐ Other: _____

Marianne P. Allen 4/7/04

Marianne P. Allen
Primary Examiner
Art Unit: 1631

Continuation of 5. does NOT place the application in condition for allowance because: A new oath is required for reasons of record. Applicant previously stated that a new oath would be submitted but in the present response argues that one is not needed. The basis for this argument does not address the reasons a new oath was required as set forth in the first Office action. Applicant asserts that the specification provides antecedent basis for the claim language. Applicant is requested to point out basis for the language "wherein the selectively cleavable link comprises at least one amino acid and further wherein said link provides for a selectively cleavable site" as well as for the particular cleavable links of claims 25 and 27-28. Applicant is referred to explanation of this lack of antecedent basis in the fina Office action. Applicant must file a proper terminal disclaimer in order to be responsive. The double patenting rejection of record will not be held in abeyance. The art rejection against claims 18-21 is maintained for reasons of record. The secretory signal sequence of Hallewall is a heterologous polypeptide within the meaning of the claims. A fusion protein where a secretory signal sequence is the heterologous polypeptide fused to superoxide dismutase is not precluded by the claim language. The language "heterologous polypeptide" does not require any particular number of amino acids, full length protein, or functionality in the claim as written. Finally, it would have been well known in the art that secretory signal sequences are selectively cleavable. It is unclear on what basis applicant is arguing otherwise .